



# NORFOLK

*Office of the City Attorney*

BERNARD A. PISHKO  
City Attorney  
WAYNE RINGER  
MARY L. NEXSEN  
NATHANIEL BEAMAN IV  
MARTHA P. MCGANN  
CYNTHIA B. HALL  
JACK E. CLOUD  
HEATHER A. MULLEN  
DEREK A. MUNGO  
TAMELE YVETTE HOBSON  
NADA N. KAWWASS  
ADAM D. MELITA  
MICHELLE G. FOY  
MATTHEW P. MORKEN  
HEATHER L. KELLEY  
ERIKKA M. MASSIE  
ZACHARY A. SIMMONS  
KARLA J. SOLORIA  
ALEX H. PINCUS

August 25, 2015

To the Honorable Council  
City of Norfolk, Virginia

**R-23**

Re: Ordinance to Approve Cooperation Agreement with NRHA

Dear Ladies and Gentlemen:

Attached please find an ordinance approving a cooperation agreement with NRHA which primarily provides for a payment in lieu of taxes for tax exempt residences developed or caused to be developed by NRHA. It updates a decades old agreement in order to account for changing circumstances. NRHA is currently working with a developer which is not comfortable with the older agreement. NRHA asks that this updated cooperation agreement be approved at the August 25<sup>th</sup> meeting so as to not delay the concerned developer.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be "B. Pishko", followed by a horizontal line.

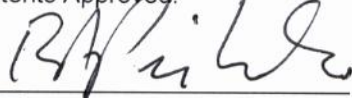
Bernard A. Pishko  
City Attorney

Recommendation: Adopt Ordinance

Form and Correctness Approved:

By   
Office of the City Attorney

Contents Approved:

By   
DEPT.

NORFOLK, VIRGINIA

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## ORDINANCE No.

AN ORDINANCE APPROVING PAYMENTS IN LIEU OF TAXES FOR  
TAX EXEMPT RESIDENCES DEVELOPED OR CAUSED TO BE  
DEVELOPED BY NRHA.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the attached Cooperation Agreement  
providing for payments in lieu of taxes for the exempt  
residences developed or caused to be developed is hereby  
approved.

Section 2:- That this ordinance shall be in effect from and  
after its date of adoption.

## COOPERATION AGREEMENT

This Agreement entered into this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between Norfolk Redevelopment and Housing Authority ("NRHA") and the City of Norfolk (the "City").

### WITNESSETH:

In consideration of the mutual covenants hereinafter set forth, the parties hereto do agree as follows:

1. Whenever used in this Agreement:

(a) The term "Project" shall mean any tax-exempt affordable housing hereafter developed and/or operated as an entity by or through NRHA with federal, state or local financial assistance, including but not limited to, financial assistance through the United States Department of Housing and Urban Development ("HUD") and/or any other comparable or successor organizations. Project shall include, but not be limited to, any housing development receiving project-based rental assistance by or through NRHA pursuant to an Annual Contributions Contract between HUD and NRHA ("ACC") or a Housing Assistance Payment ("HAP") Contract, and shall include Low-Income Public Housing ("LIPH") units under Section 9 of the Housing Act of 1937, as amended, and housing units receiving assistance under Section 8 of the Housing Act of 1937, as amended, as part of the Project-Based Voucher ("PBV") program or the Project-Based Rental Assistance ("PBRA") program, or other similar programs that provide ongoing project-based rental assistance for affordable housing, regardless of whether NRHA owns the Project or the property on which the Project is located.

(b) The term "Taxing Body" shall mean the State or any political subdivision taxing unit thereof in which a Project is situated and which would have authority to assess or levy real or personal property taxes or to certify such taxes to a taxing body or public officer to be levied for its use and benefit with respect to a Project if it were not exempt from taxation.

(c) The term "Shelter Rent" shall mean the total of all charges to all tenants of a Project for dwelling rents and non-dwelling rents (excluding all other income of such Project), less the cost to NRHA of all dwelling and non-dwelling utilities.

2. NRHA shall endeavor (a) to secure or facilitate the procurement of loans, annual contributions, project-based rental assistance and/or other financing through contracts with HUD, including but not limited to ACC and HAP contracts, or other affordable housing financing sources (collectively, "Subsidy Contracts") covering one or more Projects (regardless of the ownership of such Projects) and (b) to develop and administer, or oversee the development and administration of, such Project or Projects, each of which shall be located within the corporate limits of the City. The obligations of the parties hereto shall apply to each such Project.

3. (a) With respect to any Project so long as either (i) the ongoing rental subsidy for such Project is provided by or through a public body or governmental agency (regardless of the ownership of the Project) and is used for affordable housing purposes, or (ii) any Subsidy Contract in connection with such Project remains in force and effect, or (iii) any bonds issued in connection with such Project or any monies due to HUD, or any other lender under a Subsidy Contract, in connection with such Project remain unpaid, whichever period is the longest, the City agrees that it will not levy or impose any real or personal property taxes or special assessments upon such Project or upon NRHA with respect thereto. During such period, NRHA shall make annual payments (herein called



"Payments in Lieu of Taxes") in lieu of taxes and special assessments and in payment for the public services and facilities furnished from time to time by the City without other cost or charge for or with respect to such Project.

(b) The City may waive all or part of the Payments in Lieu of Taxes at any time for the purpose of permitting NRHA to use such payment for activities which are approved by the City Council and directly related to one or more Project.

(c) If required, each such annual Payment in Lieu of Taxes shall be made after the end of the fiscal year established for such Project, and shall be in an amount equal to either (i) ten percent (10%) of the Shelter Rent charged by NRHA or the entity that owns the Project in respect to such Project during such fiscal year, (ii) the amount permitted to be paid by applicable state law in effect on the date each payment is made, or (iii) an amount determined and approved by City Council, whichever amount is the lower.

(d) The City shall distribute the Payment in Lieu of Taxes among the Taxing Bodies in the proportion which the real property taxes which would have been paid to each Taxing Body for such year if the Project were not exempt from taxation bears to the total real property taxes which would have been paid to all of the Taxing Bodies for such year if the Project were not exempt from taxation; provided, however, that no payment for any year shall be made to any Taxing Body in excess of the amount of the real property taxes which would have been paid to such Taxing Body for such year if the Project were not exempt from taxation.

(e) Upon failure of NRHA to make any Payment in Lieu of Taxes, no lien against any Project or assets of NRHA shall attach, nor shall any interest or penalties accrue or attach on account thereof.

4. So long as either (i) a Project is owned and/or receives project-based rental assistance by or through a public body or governmental agency and is used for affordable housing purposes, or (ii) any Subsidy Contract in connection with a Project remains in force and effect, or (iii) any bonds issued in connection with a Project or any monies due to HUD, or any other lender under a Subsidy Contract, in connection with such Project remain unpaid, whichever period is the longest, the City, without cost or charge to NRHA, the Project or the tenants of such Project (other than the Payments in Lieu of Taxes) shall:

(a) Furnish or cause to be furnished to NRHA, the Project and/or the tenants of such Project public services and facilities of the same character and to the same extent as are furnished from time to time without cost or charge to other dwellings and inhabitants in the City;

(b) Vacate such streets, roads and alleys within the area of such Project as may be necessary in the development thereof, and convey without charge to NRHA or the Project such interest as the City may have in such vacated areas; and, insofar as it is lawfully able to do so without cost or expense to NRHA or to the City, cause to be removed from such vacated areas, insofar as it may be necessary, all public or private utility lines and equipment;

(c) Insofar as the City may lawfully do so, grant such waivers of the building code of the City as are reasonable and necessary to promote economy and efficiency in the development and administration of such Project, and make such changes in any zoning of the site and surrounding territory of such Project as are reasonable and necessary for the development and protection thereof;

(d) Accept grants of easements necessary for the development of such Project;  
and

(e) Cooperate with NRHA and/or the Project by such other lawful action or ways as the City and NRHA may find necessary in connection with the development and administration of such Project.

5. With respect to any Project the City further agrees that within a reasonable time after receipt of a written request therefor from NRHA:
- (a) It will accept the dedication of all interior streets, roads, alleys, and adjacent sidewalks within the area of such Project, together with all storm and sanitary sewer mains in such dedicated areas, after NRHA, at its own expense, has completed the grading, improvement, paving, and installation thereof in accordance with specifications acceptable to the City;
  - (b) It will accept necessary dedications of land for, and will grade, improve, pave, and provide sidewalks for, all streets bounding such Project or necessary to provide adequate access thereto (in consideration whereof the City shall pay to NRHA such amount as would be assessed against the Project site for such work if such site were privately owned); and
  - (c) It will provide, or cause to be provided, water mains and storm and sanitary sewer mains, leading to such Project and serving the bounding streets thereof (in consideration whereof NRHA shall pay to the City such amount as would be assessed against the Project site for such work if such site were privately owned).
6. If by reason of the City's failure or refusal to furnish or cause to be furnished any public services or facilities which it has agreed hereunder to furnish or cause to be furnished to NRHA, to any Project or to the tenants of any Project, NRHA incurs any expense to obtain such services or facilities, then NRHA may deduct the amount of such expense from any Payments in Lieu of Taxes due or to become due to the City with respect to any such Project (regardless of the ownership of the Project).
7. No Cooperation Agreement heretofore entered into between the City and NRHA shall be construed to apply to any Project covered by this Agreement.
8. The privileges and obligations of the City hereunder shall remain in full force and effect with respect to each Project so long as each such Project is owned, operated or financed by or through NRHA or any other public body or governmental agency, including HUD, authorized by law to engage in the development or administration of affordable housing projects.

[Signatures Appear on Next Page]

IN WITNESS WHEREOF, the City and NRHA have respectively signed this agreement and caused their seals to be affixed and attested as of the day and year first above written.

**CITY OF NORFOLK**

(SEAL)

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Title: \_\_\_\_\_

**NORFOLK REDEVELOPMENT AND  
HOUSING AUTHORITY**

(SEAL)

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM AND  
CORRECTNESS:**

\_\_\_\_\_  
City Attorney